

CONTRA COSTA COUNTY
EQUIPMENT & SERVICES AGREEMENT

BETWEEN CONTRA COSTA COUNTY AND GLOBAL TEL*LINK CORPORATION

1. Contract Identification.
Department: Office of the Sheriff-Coroner
Subject: Inmate Calling Program
2. Parties. The County of Contra Costa, California (County), for its Department named above, and the following named Contractor mutually agree and promise as follows:
Contractor: Global Tel*Link Corporation (GTL)
Capacity: For Profit Corporation
Address: 2609 Cameron Street, Mobile, AL 36607
3. Term. The effective date of this Contract is July 1, 2008. It terminates on June 30, 2013 unless sooner terminated as provided herein.
4. County's Obligations. County shall comply with all of the terms and conditions set forth in the Service Plan.
5. Contractor's Obligations. Contractor shall provide those services and carry out that work described in the Service Plan attached hereto which is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein. Contractor shall make those payments described in the Payment Provision attached hereto which are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.
6. General and Special Conditions. This Contract is subject to the General and Special Conditions (if any) attached hereto, which are incorporated herein by reference.
7. Project. This Contract implements in whole or in part the following described Project, the application and approval documents of which are incorporated herein by reference:
Contractor will provide an Inmate Calling System (collect calls) and coin-operated public access telephones at County detention facilities and will pay commissions to County.
8. Legal Authority. This Contract is entered into under and subject to the following legal authorities: U.S. Constitution, First Amendment; California Government Code Section 26227; and California Penal Code Sections 4025 and 851.5.

9. Signatures. These signatures attest the parties' agreement hereto:

County of Contra Costa, California

BOARD OF SUPERVISORS:	ATTEST: Clerk of the Board of Supervisors
By: _____ Chairperson/Designee	By: <u>Julie Lopez</u> Deputy

CONTRACTOR

Name of business entity <u>Global Tel*Link Corporation</u>	Name of business entity <u>Global Tel*Link Corporation</u>
By: <u>[Signature]</u> (Signature of individual or officer)	By: <u>[Signature]</u> (Signature of individual or officer)
<u>JEFFREY B. HAIDINGER</u> (Print name and title A, if applicable)	<u>Teresa Ridgeway, SVP-Administration</u> (Print name and title B, if applicable)

Note to Contractor: For corporations (profit or non-profit), the Agreement must be signed by two officers. Signature A must be that of the President or Vice-President and Signature B must be that of the Secretary or Assistant Secretary (Civil Code Sec. 1190.1 and Corporation Code Sec. 313). All signatures must be acknowledged as set forth on the following page.

COMMONWEALTH OF VIRGINIA)
) s/s
COUNTY OF FAIRFAX)

WITNESS MY HAND AND OFFICIAL SEAL:

Therese Ann Easley

**THERESE ANN EASLEY
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
NOTARY REGISTRATION NUMBER: 7172888
MY COMMISSION EXPIRES OCTOBER 31, 2012**

(Seal)

ACKNOWLEDGEMENT

COMMONWEALTH OF VIRGINIA)
) s/s
COUNTY OF FAIRFAX)

On Oct. 6, 2008, before me, Therese Ann Easley, personally appeared Jeff Hardinger, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL:


Therese Ann Easley



APPROVALS

RECOMMENDED BY DEPARTMENT

FORM APPROVED
COUNTY COUNSEL

By Eileen Deulen
Designee

By Kelko Kanjan
Deputy

APPROVED: COUNTY ADMINISTRATOR

By: Julie Lince
Designee

ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

On _____, before me, _____
(insert name and title of officer), personally appeared _____

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL:

Signature _____

(Seal)

ACKNOWLEDGEMENT (by Corporation, Partnership, or Individual)
(Civil Code § 1189)

- I. **Purpose.** The purpose of this Contract is to set forth the responsibilities of Global Tel*Link Corporation (Contractor) and County for Contractor to provide an Inmate Calling System in the Martinez Detention Facility, the West County Detention Facility, Marsh Creek Detention Facility for the Office of the Sheriff-Coroner and the Juvenile Hall and Orin Allen Youth Rehabilitation Facility for the Probation Department.
- II. **Contractor Obligations.** The Contractor shall furnish the County with an Inmate Calling System, described below.
- A. Contractor will furnish and maintain telephones for use by inmates at each County adult detention facility (Martinez Detention Facility, West County Detention Facility, and Marsh Creek Detention Facility), Juvenile Hall and the Orin Allen Youth Rehabilitation Facility.
1. Contractor will furnish, maintain and install as necessary two hundred sixty-six (266) inmate telephones and six (6) pay telephones.
 2. Contractor will furnish, maintain and install as necessary twenty-four (24) inmate telephones at the Juvenile Hall and eight (8) inmate telephones in the Orin Allen Youth Rehabilitation Facility.
 3. The telephones provided for inmate use in the facilities will be restricted for use for outgoing, collect calls only. The coin telephones will be installed in the lobby areas and will be for the use of visitors to the facilities.
 4. Contractor's furnishing, installation and maintenance of inmate telephones includes all enclosures, wiring, and equipment necessary to use the telephones, in the County adult detention facilities, juvenile hall, and youth rehabilitation facility.
 5. Contractor will be responsible for any access lines and usage charges for the telephones.
 6. All inmate telephones, wiring, and equipment furnished, installed and maintained by Contractor under this Contract shall be kept in good working order by Contractor. During the term of this Contract, the Contractor shall be allowed to enter the County facilities to maintain and work on said telephones, wiring, and equipment, subject to the security needs of the facilities.
 7. All telephones, wiring, and equipment furnished, installed and maintained by Contractor under this Contract shall remain the property of Contractor.

Initials: _____



Contractor



County Dept.

At the end of this Contract, Contractor shall be allowed to enter the County facilities and remove said property, subject to the security needs of the facilities.

8. Contractor will provide a forty (40) hour per week Site Administrator to service phone systems as needed.
 9. Contractor will provide free local calls in the booking area of the Detention Facilities. This offer is dependent on a review of current free calling parameters in an effort to cleanse the free call database. Contractor will not offer free call traffic to 'for-profit' agencies.
- B. Collect Call Telephones. The telephones will be for collect calls by inmates.
1. The Contractor will charge collect call rates set forth in Attachment A, attached and incorporated herein.
 2. Any restrictions on the length of inmate calls may be negotiated and agreed upon by the parties to this Contract.
 3. County acknowledges and agrees that Contractor may restrict completion of outgoing calls as deemed necessary to reduce fraud and uncollectibles, or as requested by County and agreed by Contractor.
- C. Contractor will be the exclusive provider of inmate calling services and will be the carrier for all inmate collect calls, including local, intraLATA (toll calls to nearby areas), InterLata (long distance calls within California), and interstate calls by inmates.
- D. In the event of failures in the Inmate Calling System or parts thereof, Contractor shall repair the failures.
1. If any failure occurs in the Inmate Calling System, the County shall notify the Contractor at (877) 856-3184.
 2. In the event of a major failure (at least half of the inmate telephones unusable or a system-wide failure), Contractor shall begin repair work within four hours of notification by the County.
 3. In the event of all other failures, Contractor shall begin repair work within twenty-four hours of notification by the County.

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4. At no cost to the County, Contractor shall replace unusable or malfunctioning telephones and equipment covered under this Contract.
- E. Upon the County's request, Contractor shall furnish written reports as follows:
 1. Activity reports on moves, changes, and disconnects of inmate telephones and related equipment.
 2. Summary reports of monthly commissions calculated, earned, and paid to date.
 3. Quarterly report containing pro-per telephone calls costed out and calculated with lost commissions.
- F. Coin Telephones.
 1. No later than 30 (thirty) days after the execution of this contract, the Contractor will furnish, maintain and install as necessary coin operated telephones at the County adult detention facility in the manner described below:
 - a. Three coin operated telephones will be in the lobby of the Martinez Detention Facility.
 - b. Three coin operated telephones will be in Building 1 at the West County Detention Facility.

III. Payments and Commissions.

- A. In exchange for the County's promises under this Contract, Contractor shall pay the County seventy-five-thousand dollars (\$75,000.00) within 50 days of the start of this Contract.
- B. Contractor shall pay County two commissions: one based on inmates' collect calls under the Inmate Calling System; and one based on the use of coin operated telephones in public access areas of County adult detention facilities.
- C. Inmate Calling System Commission. Contractor shall pay the County a commission based on inmates' collect calls that come through the AT&T Operator Services Positioning Systems (which provides public access to the AT&T network) without use of an 800 access code (such as 800 OPERATOR, 800 CALL ATT, or 800-321-4288).

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1. The commission shall be at the rate of 56% of the gross revenue from inmate collect calls, for the period July 1, 2008 through June 30, 2011 and at a commission rate of 57% for the period July 1, 2011 through June 30, 2013, pursuant to the collect call rates set forth in Attachment A.
- D. Coin Operated Telephones Commission. The Contractor shall pay the County a commission based on the use of the coin operated telephones in public access areas of County adult detention facilities.
 1. The commission shall be at the rate of 56% of the gross revenue from use of the coin operated telephones for the period July 1, 2008 through June 30, 2011 and at a commission rate of 57% for the period July 1, 2011 through June 30, 2013, pursuant to Attachment A.
- E. Payment of Commissions.
 1. Contractor shall calculate the commissions on a monthly basis, covering the period beginning on the 16th of the month and ending on the 15th of the following month. As necessary, the commission may be calculated on a pro-rata monthly basis.
 - a. Upon the County's written request in writing, Contractor shall submit the statements to County on a quarterly or semiannual basis (rather than a monthly basis).

IV. County Responsibilities.

- A. County shall provide reasonable space and lighting at telephones furnished, installed and maintained by Contractor under this Contract..
- B. As to coin operated telephones, County shall maintain 110-volt AC electrical service and pay related utility service bills, and keep telephone areas reasonably free from debris and obstructions.
- C. As to the Contractor's property placed at County adult and juvenile detention facilities under this Contract, County will take reasonable steps to protect such property from damage, vandalism, theft, or hazardous conditions. If such property is damaged, vandalized, stolen, or subjected to hazardous conditions, County shall notify the Contractor of the same.

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- D. County shall provide Contractor reasonable access to the telephones and property furnished and installed by the Contractor under this Contract, subject to the security needs of the County detention facilities.
- E. County shall provide the Contractor reasonable access to records related to the telephones, to the extent permitted by law.
- F. Upon receipt of written notice from Contractor, County shall take steps to repair or replace malfunctioning parts of the County detention facilities, which parts are necessary for the operation of the Inmate Calling System and/or coin operated telephones.
- G. If any work at the County detention facilities will involve removing or modifying the property furnished and installed by Contractor under this Contract, County will use its best efforts to notify Contractor in writing ten business days before such work commences.

Initials: pat
Contractor

[Signature]
County Dept.

ATTACHMENT A
CALLING RATES

LOCAL

Example: Martinez, California to Pleasant Hill, California (0 to 1)

Per minute tariff rate (Regulated by CPUC) cannot exceed predominate carrier rates (SBC)

Surcharge: \$2.60 plus initial minute below (\$0.13). Total first minute = \$2.73

Example: Twenty minute daytime call would be: \$4.06

52.8% commission

Commission amount to be paid to Contra Costa for this call: \$2.14

LOCAL

	DAY		EVENING		NIGHT/WEEKEND	
MILES	INITIAL MINUTE	ADDT'L. MINUTE	INITIAL MINUTE	ADDT'L. MINUTE	INITIAL MINUTE	ADDT'L. MINUTE
0-12	0.13	0.07	0.10	0.05	0.06	0.05

INTRALATA

Example: Martinez, California to Richmond, California (21 to 25 miles)

Per minute tariff rate (Regulated by CPUC) cannot exceed predominate carrier rates (SBC)

Surcharge: \$2.60 plus initial minute (\$0.17). Total first minute = \$2.77

Example: Twenty minute daytime call would be: \$4.86

52.8% commission

Commission amount to be paid to Contra Costa for this call: \$2.57

Carrier Name: A.T. & T.

INTRALATA INTRASTATE RATES

	DAY		EVENING		NIGHT/WEEKEND	
MILES	INITIAL MINUTE	ADDT'L. MINUTE	INITIAL MINUTE	ADDT'L. MINUTE	INITIAL MINUTE	ADDT'L. MINUTE
21-25	0.17	0.11	0.14	0.10	0.10	0.08

INTERLATA/INTERSTATE (Highest Rate Mileage Band) Martinez, California to San Diego, California

Per minute tariff rate (Regulated by CPUC) cannot exceed predominate carrier rates (A.T. & T.)

Total Call: Surcharge: \$3.00 first minute. Each additional minute billed at \$0.25.

Example: Twenty minute daytime call would be: \$8.00

52.8% Commission

Commission amount paid to Contra Costa for this call: \$4.22

\$0.25 per minute charge NO increase for the time of day or mileage

Initials:


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County Dept.

ATTACHMENT A
CALLING RATES

Number _____

INTERSTATE. Example, Martinez, California to Phoenix Arizona

Per minute tariff rate (Regulated by CPUC) cannot exceed predominate carrier rates (A.T.&T.)

Total Call: Surcharge: \$3.00 first minute. Each additional minute billed at \$0.55.

Example: Twenty minute daytime call would be: \$14.00
52.8% Commission
Commission amount paid to Contra Costa for this call: \$7.39

\$0.55 per minute charge NO increase for the time of day or mileage

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County Dept.

The following Special Conditions apply to the contract between the County of Contra Costa, for its Office of the Sheriff-Coroner and Probation Department (County), and Global Tel*Link Corporation (Contractor).

1. **No Payment Provisions.** No Payment Provisions (County Standard Forms P-1 or P-2) are included in this contract.

2. **Records.**

This condition replaces General Conditions, Paragraph 3, Records.

"To the extent required by law, Contractor shall keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the County."

3. **Reporting Requirements.**

This condition replaces General Conditions, Paragraph 4, Reporting Requirements.

"To the extent required by Government Code Section 7550, Contractor shall include in all documents or written reports completed and submitted to County in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section shall apply only if the payment limit under this Contract exceeds \$5000."

4. **Termination and Cancellation.**

This condition replaces General Conditions, Paragraph 5, Termination and Cancellation.

"a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-day advance written notice thereof to the other, and may be cancelled immediately by written mutual consent. In the event that County elects to terminate the contract under this section, it shall refund to Contractor all Commissions paid during the term of this Contract, and shall reimburse Contractor for any expenses incurred by Contractor in removing its equipment."

- b. **Failure to Perform.** "Either party, upon written notice to the other party, may

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notify the second party that it has failed to perform any of its obligations hereunder. In the event the notified party fails to remedy any failure to perform any of its material obligations under this Contract within sixty (60) days of receipt of such notice, or such longer period as may be reasonably necessary to effect such remedy through commercially reasonable efforts, the notifying party may terminate this Contract by giving written notice of its intent to do so within five (5) days after the expiration of the applicable cure period."

c. Cessation of Funding. Notwithstanding paragraph 5.a. above, in the event that federal, state, or other non-County funding for this Contract ceases, this Contract is terminated as to those services for which the funding is used to compensate Contractor."

5. Entire Agreement.

This condition replaces General Conditions, Paragraph 6. Entire Agreement.

"This Contract, together with Contractor's response to the Request for Proposal and the County's Request for Proposal, contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto."

6. Further Specifications for Operating Procedures.

This condition replaces General Conditions, Paragraph 7. Further Specifications for Operating Procedures.

"Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be developed and set forth in a written Informal Agreement between Contractor and County. Informal Agreements shall be designated as such and shall not be amendments to this Contract except to the extent that they further detail or clarify that which is already required hereunder. Informal Agreements may not enlarge in any manner the scope of this Contract, including and sums of money to be paid Contractor or County as provided herein. Informal Agreements may be approved and signed by the head of the county department for which this Contract is made or its designee."

7. Disputes.

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This condition replaces General Conditions, Paragraph 9. Disputes.

"Except as to a party's failure to perform properly under this Contract, covered by Paragraph 5 (Termination and Cancellation), the following procedures shall be adhered to in all disputes that arise under this contract that the parties cannot resolve informally. The claimant must notify the other party in writing of the nature of the dispute with as much detail as possible about the deficient performance of that party. The parties shall appoint appropriate individuals to meet in person or by telephone within thirty (30) days of the date of the written notification to reach agreement about the nature of the deficiency and the corrective action to be taken. These individuals shall memorialize the nature of the dispute and their efforts to resolve it, and if they are unable to agree on corrective action within ten (10) days after their meeting, either party may require the escalation of the dispute to the next level of management. If the dispute cannot be resolved by such further escalation, the aggrieved party may pursue available legal and equitable remedies or, if the parties mutually agree, an independent mediator or arbitrator."

8. Subcontract and Assignment.

This condition is supplemental to General Conditions, Paragraph 13. Subcontract and Assignment.

"Notwithstanding the foregoing, Contractor may delegate any portion of its obligations under this Contract to its parent, successor subsidiary or affiliate of the Company, without further approval or consent of the County or any other party. Additionally, the parties agree that the subsidiaries shall be permitted to operate as subcontractors for this Contract, without further approval or consent of the County or any other party."

9. Confidentiality.

This condition replaces General Conditions, Paragraph 16. Confidentiality.

"County and Contractor agree to comply and to require its officers, partners, associates, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that:

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County

SPECIAL CONDITIONS
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- a. All applications and records concerning any individual made or kept by Contractor, County, or any public agency in connection with the administration of or relating to services provided under this Contract will be confidential, and will not be open to examination for any purpose not directly connected with the administration of such service.
- b. Neither Contractor, County, or any public officer or agency in connection with the Administration of or relating to services provided under this Contract will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service."

10. **Indemnification.**

This condition replaces General Conditions, Paragraph 18. Indemnification.

- "a. County agrees to indemnify and hold harmless the Contractor for the County's share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorney's fees, arising out of the willful misconduct or the negligent acts, errors or omissions of the County in the performance of this Contract, including those relating to any claims made against Contractor by any person arising out of failure of County to comply with laws regulating the recording or monitoring of telephone calls.
- b. Contractor agrees to indemnify and hold harmless the County for the Contractor's share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorney's fees, arising out of the willful misconduct or the negligent acts, errors or omissions of the contractor, its officers or employees in the performance of this Contract.
- c. Contractor shall not be liable under this Section 18 to the extent that damages are caused by service or equipment that is not furnished by Contractor under this Contract.
- d. The indemnified party under this section: (i) must notify the other party in writing promptly upon learning of any claim or suit for which indemnification may be sought, provided that failure to do so shall have no effect except to the extent the other party is prejudiced thereby; (ii) shall have the right to participate in such

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County

SPECIAL CONDITIONS
(Purchase of Services - Long Form)

Number

defense of settlement with its own counsel and at its sole expense, but the other party shall have control of the defense or settlement; and (iii) shall reasonably cooperate with the defense."

- e. County stipulates that Contractor has no responsibility to advise County with respect to any applicable law, regulation, or guideline that may govern or control telephone call recordation or monitoring by County or compliance therewith. County has its own legal counsel to advise it concerning any and all such applicable law, regulation, or guideline, and compliance therewith. Contractor disclaims any responsibility to provide, and in fact has not provided, County any legal advice concerning such applicable law, regulations, or guideline, or compliance therewith.
- f. County acknowledges that all call detail records (CDR's) and call recordings contained in the inmate telephone system equipment provided by Contractor to County are the exclusive property of the County for the term of this Agreement and any resulting extensions of this Agreement.

11. Insurance.

This condition replaces General Conditions, Paragraph 19. Insurance.

- "a. Contractor shall obtain and maintain throughout the term of this Contract, at its sole expense, the following types of insurance coverage, with minimum limits as follows:
 - (i) Commercial General Liability covering liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and contractual liability - \$1,000,000 each occurrence;
 - (ii) Business Automobile Liability covering all owned, hired, and non-owned vehicles - \$1,000,000 each occurrence, including all statutory coverage's for all states of operations;
 - (iii) Workers Compensation - statutory limits for all states of operation;
 - (iv) Employer's Liability - \$1,000,000 each employee for bodily injury by accident and \$1,000,000 each employee for bodily injury by disease.

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- b. Contractor shall provide County with a certificate of insurance evidencing compliance with the insurance requirements set forth above. Certificate(s) will provide that County shall be named an additional insured on all liability policies (except Workers Compensation and Employers Liability). The certificate(s) shall provide that county will receive thirty (30) days' prior written notice from the insurer of any termination or material reduction in the amount or scope of coverage. Such certificates shall be in a form acceptable to, and underwritten by insurance company (ies) reasonably satisfactory to County.
- c. Contractor acknowledges that the purchase of appropriate insurance coverage by Contractor or the furnishing of certificate(s) of insurance shall not release Contractor from its obligations or liabilities under this Contract, and County does not represent that the coverage and limits described in this Section will necessarily be adequate to protect Contractor. Nothing in this Section shall expand, contract or otherwise affect the scope of Contractor's liability under this Contract.
- d. In lieu of the insurance obligations in this Section, Contractor may self-insure.
- e. If Contractor performs any of its obligations hereunder through a subcontractor, Contractor shall require such subcontractor, to the extent feasible and reasonable under the circumstances, to obtain and maintain with respect to the services it will perform and its activities in connection with those services insurance coverage for itself, its officers, employees and any agents and representatives permitted to perform services."

12. Notices.

This condition replaces General Conditions, Paragraph 20. Notices.

All written notices under this contract shall be sent to the following:

- (1) For the Contractor:

Global Tel*Link Corporation
Dorothy E. Cukier, Corporate Counsel
12021 Sunset Hills Road, Suite 100

Initials:


Contractor


County

Reston, VA 20190
(703) 955-3915
Facsimile (703) 435-0980
dcukier@gtl.net

(2) For County:

Office of the Sheriff, Contra Costa County
Jennifer Martinen, Contracts & Grants
651 Pine Street, 7th Floor
Martinez, CA 94553-0039
(925) 335-1664
Facsimile (925) 335-1551
jmart@so.cccounty.us

13. Primacy of General Conditions.

This General Condition, Paragraph 21, Primacy of General Conditions shall not apply to this Contract.

14. Copyrights and Rights in Data.

This General Condition, Paragraph 25, Copyrights and Rights in Data shall not apply to this Contract.

15. Endorsements.

This condition replaces General Conditions, Paragraph 26. Endorsements.

"Contractor will not issue any public statements or announcements relating to this Contract without the prior written permission of the County."

16. Required Audit.

This General Conditions, Paragraph 27, Required Audits shall not apply to this Contract.

17. Damages.

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Neither party shall be liable to the other party for any indirect, incidental, consequential, punitive, reliance or special damages, including without limitation, damages for lost profits, advantage, savings or revenues of any kind or increased cost of operation.

18. Order of Precedence.

The order of precedence, in the event of conflict among terms, shall be (1) the Service Plan; (2) the General Conditions; (3) the Special Conditions; (4) Contractor's Response to the Request for Proposal, and (5) the Request for Proposal.

19. Additional Terms.

a. Unless one of the parties to this contract notifies the other party in writing by April 1, 2013 of its intent not to extend this contract, the term of this contract will be extended for one year (until June 30, 2014) at a commission rate of 57%.

b. If the term of this contract is extended for one year (until June 30, 2014), the following provision applies:

(1) Unless one of the parties to this contract notifies the other party in writing by April 1, 2014 if its intent not to extend this contract, the term of this contract will be extended for one year (until June 30, 2015) at a commission rate of 57%.

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GENERAL CONDITIONS
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1. **Compliance with Law.** Contractor shall be subject to and comply with all applicable federal, state and local laws and regulations with respect to its performance under this Contract, including but not limited to, licensing, employment and purchasing practices; and wages, hours and conditions of employment, including nondiscrimination.

2. **Inspection.** Contractor's performance, place of business and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.

3. **Records.** Contractor shall keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the County.

a. **Retention of Records.** Contractor shall retain all documents pertaining to this Contract for five years from the date of submission of Contractor's final payment demand or final Cost Report; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this contract's funding period. Upon request, Contractor shall make these records available to authorized representatives of the County, the State of California, and the United States Government.

b. **Access to Books and Records of Contractor, Subcontractor.** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor shall, upon written request and until the expiration of four years after the furnishing of services pursuant to this Contract, make available to the County, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and books, documents, and records of Contractor necessary to certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that upon written request and until the expiration of four years after the furnishing of services pursuant to such subcontract, the subcontractor shall make available to the County, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This special condition is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor.

4. **Reporting Requirements.** Pursuant to Government Code Section 7550, Contractor shall include in all documents or written reports completed and submitted to County in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section shall apply only if the payment limit under this Contract exceeds \$5,000.

5. **Termination and Cancellation.**

a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-day advance written notice thereof to the other, and may be cancelled immediately by written mutual consent.

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- b. **Failure to Perform.** County, upon written notice to Contractor, may immediately terminate this Contract should Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, County may proceed with the work in any reasonable manner it chooses. The cost to County of completing Contractor's performance shall be deducted from any sum due Contractor under this Contract, without prejudice to County's rights to recover damages.
- c. **Cessation of Funding.** Notwithstanding Paragraph 5.a. above, in the event that federal, state, or other non-County funding for this Contract ceases, this Contract is terminated without notice.
6. **Entire Agreement.** This Contract contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.
7. **Further Specifications for Operating Procedures.** Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be developed and set forth in a written Informal Agreement between Contractor and County. Informal Agreements shall be designated as such and shall not be amendments to this Contract except to the extent that they further detail or clarify that which is already required hereunder. Informal Agreements may not enlarge in any manner the scope of this Contract, including any sums of money to be paid Contractor as provided herein. Informal Agreements may be approved and signed by the head of the county department for which this Contract is made or its designee.
8. **Modifications and Amendments.**
- a. **General Amendments.** This Contract may be modified or amended by a written document executed by Contractor and the Contra Costa County Board of Supervisors or, after Board approval, by its designee, subject to any required state or federal approval.
- b. **Administrative Amendments.** Subject to the Payment Limit, the Payment Provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, provided that such administrative amendment may not materially change the Payment Provisions or the Service Plan.
9. **Disputes.** Disagreements between County and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final written determination by the head of the county department for which this Contract is made, or his designee, or in accordance with the applicable procedures (if any) required by the state or federal government.
10. **Choice of Law and Personal Jurisdiction.**
- a. This Contract is made in Contra Costa County and shall be governed and construed in accordance with the laws of the State of California.
- b. Any action relating to this Contract shall be instituted and prosecuted in the courts of Contra Costa County, State of California.


Contractor


County Dept.

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11. **Conformance with Federal and State Regulations and Laws.** Should federal or state regulations or laws touching upon the subject of this Contract be adopted or revised during the term hereof, this Contract shall be deemed amended to assure conformance with such federal or state requirements.

12. **No Waiver by County.** Subject to Paragraph 9. (Disputes) of these General Conditions, inspections or approvals, or statements by any officer, agent or employee of County indicating Contractor's performance or any part thereof complies with the requirements of this Contract, or acceptance of the whole or any part of said performance, or payments therefor, or any combination of these acts, shall not relieve Contractor's obligation to fulfill this Contract as prescribed; nor shall the County be thereby estopped from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.

13. **Subcontract and Assignment.** This Contract binds the heirs, successors, assigns and representatives of Contractor. Prior written consent of the County Administrator or his designee, subject to any required state or federal approval, is required before the Contractor may enter into subcontracts for any work contemplated under this Contract, or before the Contractor may assign this Contract or monies due or to become due, by operation of law or otherwise.

14. **Independent Contractor Status.** This Contract is by and between two independent contractors and is not intended to and shall not be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture or association.

15. **Conflicts of Interest.** Contractor, its officers, partners, associates, agents, and employees, shall not make, participate in making, or in any way attempt to use the position afforded them by this Contract to influence any governmental decision in which they know or have reason to know they have a financial interest under California Government Code Sections 87100, et seq., or otherwise.

16. **Confidentiality.** Contractor agrees to comply and to require its officers, partners, associates, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that:

- a. All applications and records concerning any individual made or kept by Contractor or any public officer or agency in connection with the administration of or relating to services provided under this Contract will be confidential, and will not be open to examination for any purpose not directly connected with the administration of such service.
- b. No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.

17. **Nondiscriminatory Services.** Contractor agrees that all goods and services under this Contract shall be available to all qualified persons regardless of age, sex, race, religion, color, national origin, ethnic background, disability, or sexual orientation, and that none shall be used, in whole or in part, for religious worship or instruction.

18. **Indemnification.** Contractor shall defend, indemnify, save, and hold harmless County and its officers and employees from any and all claims, costs and liability for any damages, sickness, death, or injury to person(s) or property, including without limitation all consequential damages, from any cause whatsoever arising directly or indirectly from or connected with

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the operations or services of Contractor or its agents, servants, employees or subcontractors hereunder, save and except claims or litigation arising through the sole negligence or sole willful misconduct of County or its officers or employees. Contractor will reimburse County for any expenditures, including reasonable attorneys' fees, County may make by reason of the matters that are the subject of this indemnification, and, if requested by County, will defend any claims or litigation to which this indemnification provision applies at the sole cost and expense of Contractor.

19. **Insurance.** During the entire term of this Contract and any extension or modification thereof, Contractor shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:

a. **Liability Insurance.** For all contracts where the total payment limit of the contract is \$500,000 or less, Contractor shall provide comprehensive liability insurance, including coverage for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance shall be endorsed to include County and its officers and employees as additional insureds as to all services performed by Contractor under this agreement. Said policies shall constitute primary insurance as to County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) shall not be required to contribute to any loss covered under Contractor's insurance policy or policies. For all contracts where the total payment limit is above \$500,000, the aforementioned insurance coverage to be provided by Contractor shall have a minimum combined single limit coverage of \$1,000,000, and Contractor shall be required to provide County with a copy of the endorsement making the County an additional insured on all general liability, worker's compensation, and, if applicable, all professional liability insurance policies as required herein no later than the effective date of this Contract.

b. **Workers' Compensation.** Contractor shall provide workers' compensation insurance coverage for its employees.

c. **Certificate of Insurance.** The Contractor shall provide the County with (a) certificate(s) of insurance evidencing liability and worker's compensation insurance as required herein no later than the effective date of this Contract. If the Contractor should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor shall provide (a) current certificate(s) of insurance.

d. **Additional Insurance Provisions.** The insurance policies provided by Contractor shall include a provision for thirty (30) days written notice to County before cancellation or material change of the above specified coverage.

20. **Notices.** All notices provided for by this Contract shall be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to County shall be addressed to the head of the county department for which this Contract is made. Notices to Contractor shall be addressed to the Contractor's address designated herein. The effective date of notice shall be the date of deposit in the mails or of other delivery, except that the effective date of notice to County shall be the date of receipt by the head of the county department for which this Contract is made.

21. **Primacy of General Conditions.** Except for Special Conditions which expressly supersede General Conditions, the Special Conditions (if any) and Service Plan do not limit any term of the General Conditions.

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22. **Nonrenewal.** Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased by County under a new contract following expiration or termination of this Contract, and waives all rights or claims to notice or hearing respecting any failure to continue purchasing all or any such services from Contractor.
23. **Possessory Interest.** If this Contract results in Contractor having possession of, claim or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this Contract results in the placement of taxable improvements on tax exempt land (Revenue & Taxation Code Section 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest. Contractor agrees that this provision complies with the notice requirements of Revenue & Taxation Code Section 107.6, and waives all rights to further notice or to damages under that or any comparable statute.
24. **No Third-Party Beneficiaries.** Notwithstanding mutual recognition that services under this Contract may provide some aid or assistance to members of the County's population, it is not the intention of either County or Contractor that such individuals occupy the position of intended third-party beneficiaries of the obligations assumed by either party to this Contract.
25. **Copyrights and Rights in Data.** Contractor shall not publish or transfer any materials produced or resulting from activities supported by this agreement without the express written consent of the County Administrator. If any material is subject to copyright, County reserves the right to copyright, and Contractor agrees not to copyright, such material. If the material is copyrighted, County reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so.
26. **Endorsements.** Contractor shall not in its capacity as a contractor with Contra Costa County publicly endorse or oppose the use of any particular brand name or commercial product without the prior approval of the Board of Supervisors. In its County contractor capacity, Contractor shall not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely accepted scientific basis for such claims or without the prior approval of the Board of Supervisors. In its County contractor capacity, Contractor shall not participate or appear in any commercially produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of Contra Costa County. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Supervisors, County officers, or others who may be authorized by the Board of Supervisors or by law to receive such views.
27. **Required Audit.** (A) If Contractor is funded by \$500,000 or more in federal grant funds in any fiscal year ending after December 31, 2003 from any source, Contractor shall provide to County at Contractor's expense an audit conforming to the requirements set forth in the most current version of Office of Management and Budget Circular A-133. (B) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year ending after December 31, 2003 from any source, but such grant imposes specific audit requirements; Contractor shall provide to County an audit conforming to those requirements. (C) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year ending after December 31, 2003 from any source, Contractor is exempt from federal audit requirements for that year, however, Contractor's records must be available for and an audit may be required by, appropriate officials of the federal awarding agency, the General Accounting Office (GAO), the pass-through entity and/or the County. If any

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such audit is required, Contractor shall provide County with such audit. With respect to the audits specified in (A), (B) and (C) above, Contractor is solely responsible for arranging for the conduct of the audit, and for its cost. County may withhold the estimated cost of the audit or 10 percent of the contract amount, whichever is larger, or the final payment, from Contractor until County receives the audit from Contractor.

28. Authorization. Contractor, or the representative(s) signing this Contract on behalf of Contractor, represents and warrants that it has full power and authority to enter into this Contract and perform the obligations herein.